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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

DAVID ALLEN LYNN
40023 High Street
Cherry Valley, CA 92223

Respondent.

Case No. 1H-2008-018

OAH No.

STATEMENT OF ISSUES

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about January 7, 2008, the Respiratory Care Board of California, Department of Consumer Affairs received an application for a Respiratory Care Practitioner License from David Allen Lynn (Respondent). On or about January 1, 2008, respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on May 27, 2008. On or about May 31, 2008, respondent requested a hearing to contest the denial of his application for licensure as a Respiratory Care Practitioner.

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3. This Statement of Issues is brought before the Respiratory Care Board

4. Section 3710 of the Code states: “The Respiratory Care Board of

5. Section 3718 of the Code states: “The board shall issue, deny, suspend,

6. Section 3732 of the Code states:

"(a) The board shall investigate each and every an applicant for a license, before a license is issued, in order to determine whether or not the applicant has in fact the qualifications required by this chapter.

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"(b) The board may deny an application, or may order the issuance of a

"(b) The board may deny an application, or may order the issuance of a license with terms and conditions, for any of the causes specified in this chapter for suspension or revocation of a license, including, but not limited to, those causes specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

7. Section 3757 of the Code states:

“The board may refuse to issue a license or an authorization to work as a ‘respiratory care practitioner applicant’ whenever it appears that the applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to any denial of a license or authorization pursuant to this section.

“The board may refuse to issue a license or an authorization to work as a ‘respiratory care practitioner applicant’ whenever it appears that the applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to any denial of a license or authorization pursuant to this section.

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8. Section 3753.5, subdivision (a), of the Code states:

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any

1 practitioner or applicant found to have committed a violation or violations
2 of law to pay to the board a sum not to exceed the costs of the investigation
3 and prosecution of the case."

4 9. Section 3753.7 of the Code states:

5 "For purposes of the Respiratory Care Practice Act, costs of prosecution
6 shall include attorney general or other prosecuting attorney fees, expert witness fees, and
7 other administrative, filing, and service fees."

8 10. Section 3753.1, subdivision (a), of the Code states:

9 "An administrative disciplinary decision imposing terms of probation may
10 include, among other things, a requirement that the licensee-probationer pay the monetary
11 costs associated with monitoring the probation. "

12 **CAUSE FOR DENIAL OF APPLICATION**

13 **(Chemical Dependency)**

14 11. Respondent's application is subject to denial under section 3757 in
15 that on or about April 21, 2008, the Respiratory Care Board obtained documentation from
16 Loma Linda Veteran Affairs Medical Hospital which provided the Respondent is alcohol
17 dependent.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Denying the application of DAVID ALLEN LYNN for a Respiratory Care Practitioner's License;
2. Directing David Allen Lynn to pay the Respiratory Care Board of California, the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: July 15, 2008

Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant